

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jose L. Montanez,

Case No. 1:16 CV 258

Petitioner,

O R D E R

-vs-

JUDGE JACK ZOUHARY

Alan Lazaroff,

Respondent.

Petitioner *pro se* Jose Montanez, a state prisoner, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. 1). Respondent answered (Doc. 8), and Petitioner filed a traverse (Doc. 11). The case was referred to Magistrate Judge William Baughman for a Report and Recommendation (R&R) under Local Rule 72.2(b)(2). The R&R (Doc. 13) recommends this Court deny the Petition on the merits as to Grounds One and Two, because the state court decisions were not contrary to clearly established federal law, and dismiss the Petition as to Ground Three, because the doctrine of self-defense is a non-cognizable question of state law.

Under 28 U.S.C. § 636(b)(1), a party must serve written objections to the Magistrate Judge's proposed findings and recommendations within fourteen (14) days of being served with the R&R. This Court then makes a *de novo* determination of those portions to the R&R to which objections were made. Failure to file objections within the time frame set forth in the statute constitutes a waiver of *de novo* review by the district court. *See United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Thomas v. Arn*, 474 U.S. 140 (1985).

Petitioner's deadline for filing objections has passed, and no requests for extension have been received. The R&R accurately states the facts and law, and this Court adopts it in its entirety. Accordingly, the Petition is denied as to Grounds One and Two, and dismissed as to Ground Three. This Court further certifies that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

July 17, 2017